S.B. Civil Writ Petition No.6202/04
Gajanand Vs. Additional District Judge No.5, Kota & Ors.

07.02.2007

Hon'ble Mr. Justice Mohammad Rafiq

Mr. Ravi Kasliwal for petitioner.
Mr. B.S. Chhaba, Dy. G.A.

Heard learned counsel for the parties.

The writ petition is basically directed against the judgment dated 23.08.2004 passed by the Court of Additional District Judge No.5, Kota in the appeal filed by the respondents against the order of Civil Judge (Jr.Division), Sangod dated 31.7.03 in which injunction order in the Civil Suit of the petitioner was passed. The petitioner had filed a suit for injunction in the Court of Civil Judge (Jr.Division) inter alia on the premise that a land measuring 168 sq. yards out of

khasra no.334 was allotted to him by Tehsildar, Sangod on 3.4.73 on the basis of his possession, for the same was in his possession since the times of his ancestors. Subsequently, on receiving certain complaints, the respondents were now seeking to evict him from the said land. When the said Court issued the injunction order in favour of the petitioner, the respondents filed an appeal against the same in the Court of Additional District Judge who partly allowed the same and directed that the status quo in regard to only that part of the land over which `Kiyoska' (a wooden body) was placed by the petitioner. The Additional District Judge also took note of the fact that the allotment made by the Tehsildar in favour of the petitioner was cancelled by District Collector vide order dated 6.5.2003 against

which the petitioner filed revision petition before the Board of Revenue. The Board of Revenue by its order dated 6.10.2003 had also directed that the status quo in regard to the land in dispute as it existed on 6.10.2003 be maintained. The Additional District Judge, therefore, directed that status quo in regard to the land over which the wooden body was placed be maintained and in the meantime, if the revision petition was decided by the Board of Revenue finally, the Public Work Department should act in accordance with the judgment passed by the Board of Revenue. A direction was issued for deciding the Civil Suit of the petitioner within eight months.

Learned counsel for the petitioner is not in a position to inform either status of the revision petition filed

before the Board of Revenue or the Civil Suit, but in the facts of the case when I find that the learned Additional District Judge, Kota himself has directed that in case the revision petition of the petitioner was decided by the Revenue Board in the meantime, the Public Works Department would act accordingly and simultaneously it also directed the trial court to dispose of the Civil Suit within 8 months, there does not appear any illegality in the order which can be described as error apparent on the face of record so as to warrant interference by this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

I therefore, do not find any merit in this writ petition. The writ petition deserves to be dismissed. If however the

Civil Suit has not been decided so far, in spite of the direction given by the Court of Additional District Judge, the trial court is directed to decide the same as expeditiously as possible, but in no case later than six months from the date of receipt of copy of this judgment. A copy of the judgment be forwarded to the concerned court for compliance. Till decision of the suit, the respondent shall not interfere in the right of way of the petitioner to access the wooden body with regard to which status quo order in his favour has been passed by the Court of Additional Sessions Judge.

With the above directions, the writ petition is dismissed.

(Mohammad Rafiq),J.

Rs/-